

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 98-718

CLEANUP AND ABATEMENT ORDER
FOR
DONALD A. MONDANI, DOUGLAS W. MONDANI
AND GERALDINE M. CASSINELLI
NEWTON COPPER MINE
AMADOR COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Board) finds that:

1. Newton Copper Mine is an abandoned copper mine in Section 28 T6N, R10E, MDB & M, adjacent to Highway 88 and approximately 6 miles west of the City of Jackson and 4 miles east of Ione. The mine consists of a collapsed shaft and 3 to 5 acres of waste rock and processed (heap roasted) tailings.
2. The mine is on property identified by Amador County Assessor's Parcel Number (APN) 11-160-009. The property consists of 63.96 acres and includes the Newton Copper Mine claim listed as Lot 39. The parcel is co-owned by Donald Mondani, Douglas Mondani and Geraldine Cassinelli, heirs to the Nellie M. Mondani estate, the previous owner of the property. Donald Mondani, Douglas Mondani and Geraldine Cassinelli are hereafter referred to as Discharger.
3. Waste discharged from the Discharger's property to surface waters adversely impacts waters of the State. The Discharger has ownership and measure of control to abate the threat to surface waters.
4. The mine property is traversed by and has surface drainage to Copper Creek. Copper Creek is tributary to Sutter Creek, which is tributary to Dry Creek, which is tributary to the Mokelumne River.
5. The Board adopted the Water Quality Control Plan, Third Edition, for the Sacramento River Basin and San Joaquin River Basin (hereafter Basin Plan) which contains water quality objectives for surface and ground waters. The beneficial uses of the Copper Creek include agricultural supply, groundwater recharge, freshwater replenishment, nonwater-contact recreation, wildlife habitat. The beneficial uses of Sutter Creek and the Mokelumne River include municipal and domestic supply, agricultural supply, industrial process supply, groundwater recharge, freshwater replenishment, water-contact recreation, nonwater-contact recreation, warm freshwater habitat, and wildlife habitat.
6. Mining activity by the Newton Mining Company occurred between 1863 to 1908 and between 1943-1946 by the Winston Copper Company and Pacific Mining Company. Approximately 78,000 tons of ore and 5 million pounds of copper and minor amounts of gold and silver were extracted and beneficiated at the Newton Copper Mine site. In June

CLEANUP AND ABATEMENT ORDER FOR
DONALD MONDANI, DOUGLAS MONDANI,
AND GERALDINE CASSINELLI
NEWTON COPPER MINE, AMADOR COUNTY

-2-

1965, the Board adopted Resolution No. 65-63 governing discharges from the Newton Copper Mine for a proposed in-situ leaching operation by the Utah Construction and Mining Company. In May 1967 the Utah Construction and Mining Company transferred the mining interest to David L. Hermiston. The Board adopted Resolution No. 67-167 naming David L. Hermiston as responsible for potential discharges from proposed Newton Copper Mine operations. The reactivation of mining activity at the abandoned site never occurred.

7. On 18 June 1971, the Executive Officer informed Nellie M. Mondani (a joint property owner with August DuFrene) of the Board's intention to revise requirements to include her and other owners of record, listed on the Amador County Assessment Tax Roll as responsible parties. The Executive Officer also stated in the letter that the discharge was causing discoloration of the receiving watercourse and that it contained copper in concentrations toxic to aquatic life. The Executive Officer requested that Nellie M. Mondani contact the Board within 30 days because corrective measures were necessary. Nellie M. Mondani did not respond to the request.
8. On 23 May 1990, staff sent a letter to Nellie M. Mondani requesting that she submit a technical report by 1 August 1990, describing the measures to mitigate the ongoing discharge to surface waters of the state. Nellie M. Mondani did not respond to the request.
9. On 28 February 1992, the Board rescinded Resolution No. 67-167 and found that the site continues to pollute Copper Creek with metals which leach out of the tailings piles and that corrective action would be proposed.
10. Acid rock and acid mine drainage from the Newton Copper Mine continues to contribute metals loading into Copper Creek, which exceeds narrative toxicity objectives and the numerical water quality objectives for the protection of beneficial uses of Copper Creek.
11. Copper Creek parallels Highway 88 and flows along the highway drainage. Upstream of Newton Copper Mine, the creek has a neutral pH. As Copper Creek enters the mine site, the creek flows between the mine tailings and CALTRANS highway property. It then meanders through the lower edge of the tailings and off the Discharger's property. Discharges from the mine shaft and stormwater in contact with the tailings and waste rock combine and flow into Copper Creek, through the toe of the tailings, resulting in the creek becoming acidic and containing elevated levels of metals, principally copper and iron. For over a quarter of a mile below the mine, the creek bed is coated with a yellow-orange colored ferrous oxide precipitate and is devoid of aquatic organisms.
12. Based on samples collected in 1991, water flowing towards the creek from the base of the tailings was very acidic with a pH of 2.0. About a quarter mile downstream, the creek had a pH 3.0. Samples of Copper Creek collected on 20 June 1991, downstream of the tailings, contained total copper concentrations ranging from 6 to 29 milligrams per liter. Samples

collected for aquatic bioassay testing also found these concentrations acutely toxic to fathead minnows.

13. The condition of Copper Creek is such that fish and most aquatic organisms cannot survive. Copper Creek cannot support a sport fishery. During the summer months, the 0.33 to 0.25 cubic feet a second flow that courses past the tailings is not sufficient to provide tributary flow to Sutter Creek, 1.5 miles downstream.
14. The Discharger has been working with staff, since April 1994, to develop cleanup and abatement measures for the Newton Copper Mine.
15. Land within 1,000 feet of the mine is used for residential and agricultural purposes.
16. Section 13304(a) of the Water Code provides that, "Any person who has discharged or discharges wastes into the waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permits any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board cleanup the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant".
17. Section 13267(b) of the California Water Code provides that, "In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge wastes within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of discharging, or proposes to discharge waste outside its region that could affect the quality of the waters within its region shall furnish, under penalty or perjury, technical or monitoring program reports which the regional board requires. The burden, including the costs, of those reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports."
18. Any person affected adversely by this action of the Board may petition the State Water Resources Control Board (State Board) to review this action. The petition must be received by the State Board within 30 days of the date on which this Order was adopted. Copies of the law and regulations applicable to filing petitions will be provided on request.

CLEANUP AND ABATEMENT ORDER FOR
DONALD MONDANI, DOUGLAS MONDANI,
AND GERALDINE CASSINELLI
NEWTON COPPER MINE, AMADOR COUNTY

-4-

19. The issuance of this order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to Sections 13267 and 13304 of the California Water Code, the owners of the Newton Copper Mine, Donald Mondani, Douglas Mondani and Geraldine Cassinelli shall:

1. Cleanup and Abate the adverse impacts that the Newton Copper Mine and associated tailings and waste rock dumps have on the waters of the state, in accordance with the time schedule in Order Number 2 through 10 as follows:
2. Submit to the Board an approvable workplan by **1 August 1998** to characterize the wastes into the waste type classifications as defined in Title 22 and Title 27 of the California Administrative Code.
3. Submit to the Board a technical report by **15 December 1998** which fully characterizes the waste by volume, waste type and chemical constituents.
4. Submit to the Board a technical report by **1 March 1999** that proposes methods for cleanup and abatement of the wastes. If the proposed corrective measures include either a regulated discharge to surface water or land disposal of mining wastes, a complete report of waste discharge and appropriate application filing fee must accompany the technical report. Land disposal alternatives must also comply with the California Environmental Quality Act (CEQA).
5. For cleanup and abatement activities resulting in off-sight disposal of wastes and for which a waste discharge fee is not submitted to the Regional Board, the Discharger shall reimburse the Regional Water Quality Control Board for reasonable costs associated with oversight of the cleanup of this mine facility. **By 1 March 1999**, submit the one name and address to be used for billing purposes for this reimbursement. Failure to reimburse the Board for reasonable oversight costs shall be considered a violation of this Order.
6. Submit to the Board a technical report by **15 May 1999** that specifies a cleanup plan. The plan shall provide specific detail demonstrating compliance with appropriate regulations including design specifications specific enough to allow staff to approve the cleanup plan.
7. Commence implementation of the approved cleanup plan by **1 July 1999**. Commence implementation is defined as to begin to remove wastes or build closure and containment structures.

CLEANUP AND ABATEMENT ORDER FOR
DONALD MONDANI, DOUGLAS MONDANI,
AND GERALDINE CASSINELLI
NEWTON COPPER MINE, AMADOR COUNTY

-5-

8. Submit a progress report by **1 September 1999** on percent completion of implementation of cleanup plan.
9. Submit to the Board a technical report by **15 December 1999** that describes that remediation activities have been completed in accordance with the cleanup plan. The report must include soil confirmation sampling on the degree of waste/soil cleanup and as-built drawings of any capital improvements made for containing or treating wastes left on site.
10. Submit to the Board a technical report by **1 March 2000** which fully characterizes the chemical constituents and waste volume of any mine and/or spring water releases to surface waters from any mine adits, shafts or tunnels on the site. The technical report must also provide an evaluation and proposal for mine drainage abatement measures.
11. Implement measures by **1 August 2000** and complete remediation by **1 October 2000** to abate the discharge to surface waters from and mine adits, shafts or tunnels on the site.

GARY M. CARLTON, Executive Officer

GKV:njs
24 April 1998